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Decision 01-03-052 March 27, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
for Authority, Among Other Things, to Increase
Rates and Charges for Electric and Gas Service
Effective on January 1, 1999.

(U 39 M)

Application 97-12-020
(Filed December 12, 1997)

Investigation into the Reasonableness of
Expenses Related to the Out-Of-Service Status of
Pacific Gas and Electric Company's El Dorado
Hydroelectric Project and the Need to Reduce
Electric Rates Related To This Non-Functioning
Electric Generating Facility.

Investigation 97-11-026
(Filed November 19, 1997)

Application of Pacific Gas and Electric Company
for Authority, Among Other Things, to Decrease
its Rates and Charges for Electric and Gas
Service, and Increase Rates and Charges for
Pipeline Expansion Service.

Application 94-12-005
(Filed December 9, 1994)

Order Instituting Investigation Into Rates,
Charges, and Practices of Pacific Gas and Electric
Company.

Investigation 95-02-015
(Filed February 22, 1995)

**OPINION REGARDING PACIFIC GAS AND ELECTRIC COMPANY'S MOTION
TO EXTEND THE DATE FOR TENDERING THE NOTICE OF INTENT
ASSOCIATED WITH ITS TEST YEAR 2002 GENERAL RATE CASE**

Summary

We consider the narrow question of whether to extend, on a day-for-day basis as described below, the May 1, 2001 date set by Decision (D.) 00-07-050 for Pacific Gas and Electric Company (PG&E) to tender the Notice of Intent (NOI) associated with its Test Year (TY) 2002 general rate case (GRC). PG&E's uncontested motion for such an extension is granted as set forth herein.

Background

D.00-02-046, our decision in PG&E's TY 1999 GRC, ordered PG&E to file a TY 2002 GRC. The Rate Case Plan would have required PG&E to tender its NOI in the summer of 2000. However, on July 20, 2000, after considering comments on the scope and timing of PG&E's TY 2002 GRC, which comments were submitted in response to a joint ruling by Assigned Commissioner Bilas and Coordinating Commissioner Wood, we issued D.00-07-050. That decision ordered PG&E to tender the NOI for its TY 2002 GRC on May 1, 2001.

PG&E filed a petition for modification of D.00-07-050 on January 25, 2001. In the petition, PG&E requests that it be excused from the May 1, 2001 NOI deadline. PG&E proposes that it be directed to file an alternative to the current schedule or an alternative to the GRC itself. PG&E refers to the uncertainties created by California's energy crisis, including its own possible bankruptcy, as grounds for modifying the current plan for the TY 2002 GRC. The Office of Ratepayer Advocates protested the petition, disposition of which is pending.

On the same day that it filed the petition for modification, PG&E requested that the Executive Director authorize a day-for-day extension of time to tender

the NOI.¹ On February 14, 2001, the Executive Director responded to this request by approving a limited extension of time to August 2, 2001 that would become effective only if the Commission has not acted upon the petition for modification prior to May 1, 2001. The Executive Director denied PG&E's specific request for an extension of time that would take effect only if the Commission acts upon and denies the petition, determining that approval of such an extension should be reserved to the Commission.

On March 5, 2001, PG&E filed a motion requesting that we extend the date by which it must tender the NOI (Extension Motion). PG&E requests that the NOI tender date be extended by the number of days from the filing date of the Extension Motion, March 5, 2001, to the date that the Commission issues a final decision, no longer subject to appeal, on the pending petition for modification of D.00-07-050. The extension would become effective in the event the Commission denies PG&E's petition for modification and orders it to file an NOI. If the Commission grants the petition, PG&E would be directed to file a proposal by the later of May 1, 2001 or 30 days after the issuance of the decision granting the petition.

By ruling dated March 9, 2001, the Administrative Law Judge granted in part a separate motion by PG&E to shorten the time for responses to the Extension Motion, and directed that responses be filed by March 12, 2001. No responses to the Extension Motion were filed. Today we take up the limited question of whether to approve PG&E's uncontested Extension Motion.

¹ Rule 48(b) of the Rules of Practice and Procedure authorizes the Executive Director to grant requests for extensions of time to comply with a Commission decision or order.

Discussion

In D.00-07-050, we observed that “processing a GRC for a major gas or electric utility is a considerable task that expends an enormous amount of resources of the Commission, the applicant, and intervening parties.” Now we find that the California energy crisis is imposing a substantial burden on the resources of this Commission, and it appears that utilities and other parties are similarly affected by the need to respond to the energy crisis.

Under the current circumstances, there is a compelling need to ensure that our resources and those of the utilities and other parties are not unnecessarily diverted to a GRC that might be suspended or delayed in the near future. Yet, in the absence of immediate action on our part, those who are involved in PG&E’s TY 2002 GRC must continue to prepare for that case, and it is probable that those efforts will divert resources from more critical efforts to respond to the energy crisis. Depending on how we resolve PG&E’s petition for modification, such efforts might be determined to be unnecessary. Finally, as PG&E notes, the filing of the petition does not stay the requirement that PG&E meet the May 1, 2001 deadline, and the Executive Director approved only partial relief that does not permit PG&E to discontinue, even temporarily, preparing for the GRC.

Therefore, until we have had an opportunity to consider PG&E’s petition for modification of D.00-07-050 and to adopt a firm plan for PG&E’s TY 2002 GRC, we find that approving a limited extension of time for tendering the NOI is both prudent and justified. We make this determination without prejudging our decision on the petition.

Based on the foregoing, we approve a limited extension of the NOI tender date substantially as proposed by PG&E. PG&E proposes that the extension “would equal to the number of days from March 5, 2001, to the date the

Commission issues a final decision, no longer subject to appeal, regarding PG&E's pending petition." We understand PG&E's reference "a final decision, no longer subject to appeal" to mean the date on which all rights for applications for rehearing (Pub. Util. Code § 1731, et seq.) and judicial review (Pub. Util. Code § 1756, et seq.) of the decision are extinguished and the matter is closed. We will not approve an extension of time that is subject to such an indefinite period. Instead, we will limit the calculation of the extension period to 30 days after the decision on the petition for modification is issued. This is consistent with the time set in Pub. Util. Code § 1731(b) for filing of applications for rehearing.

Comments on Draft Decision

The draft decision of Assigned Commissioner Bilas and Coordinating Commissioner Wood in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7. Rule 77.7(f)(2) authorizes the Commission to reduce or waive the 30-day period for public review and comment on draft decisions in an uncontested matter where the decision grants the relief requested. Comments were filed by PG&E in support of the draft decision, which we adopt without modification.

Findings of Fact

1. Processing a GRC for a major gas or electric utility is a considerable task that expends an enormous amount of resources of the Commission, the applicant, and intervening parties.
2. The California energy crisis is imposing a substantial burden on the resources of this Commission, and, it appears, those of the utilities and other parties.

3. In the absence of immediate action on our part, those who are involved in PG&E's TY 2002 GRC must continue to prepare for that case even though such efforts will divert resources from more critical efforts to respond to the energy crisis; yet, depending on how we resolve PG&E's petition for modification, such efforts might be determined to be unnecessary.

4. A limited extension of time for tendering the NOI associated with PG&E's TY 2002 GRC is both prudent and justified.

Conclusions of Law

1. PG&E's motion should be granted as provided herein.
2. Nothing in this decision prejudices our decision on the PG&E's pending petition for modification of D.00-07-050.
3. The decision should be effective today so that Commission staff, PG&E and other parties may plan accordingly.

O R D E R

IT IS ORDERED that:

1. The March 5, 2001 motion of Pacific Gas and Electric Company (PG&E) to extend the date for tendering its Notice of Intent (NOI) for the Test Year (TY) 2002 general rate case (GRC) is granted to the extent set forth in Ordering Paragraph 2 of this Order.
2. The May 1, 2001 date set by Decision (D.) 00-07-050 for PG&E to tender the NOI for its TY 2002 GRC is extended by the number of days from March 5, 2001 to 30 days after the date the Commission issues a final decision on PG&E's January 25, 2001 petition for modification of D.00-07-050. The dates set in Ordering Paragraph 2 of D.00-07-050 for the Office of Ratepayer Advocates to

notify PG&E of any deficiencies, for PG&E to correct its NOI deficiencies, and for PG&E to file its GRC application are extended by the same number of days.

3. The extensions of time granted in Ordering Paragraph 2 of this Order shall become effective only if the Commission denies PG&E's January 25, 2001 petition for modification of D.00-07-050 and orders PG&E to file the NOI.

4. To the extent, if any, that the authority granted herein conflicts with the authority granted by the Executive Director on February 14, 2001, the authority granted herein shall supersede that granted by the Executive Director.

This decision is effective today.

Dated March 27, 2001, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners